

March 29, 2004

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IN THE SUPREME COURT OF THE STATE OF IDAHO  
2004 Opinion No. 31

IN THE MATTER OF THE TERMINATION )  
OF THE PARENTAL RIGHTS OF JANE DOE )  
AND JOHN DOE RE: BABY BOY DOE, A )  
MINOR CHILD. )

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ROE FAMILY SERVICES, )

Plaintiff-Appellant, )

v. )

JOHN DOE, )

Defendant-Respondent, )

and )

JOHN AND JANE ROE, husband and wife, )

Intervenors-Appellants. )

Docket No. 29781

IN THE MATTER OF THE TERMINATION )  
OF THE PARENTAL RIGHTS OF JANE DOE )  
AND JOHN DOE RE: BABY BOY DOE, A )  
MINOR CHILD. )

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JANE DOE, )

Plaintiff-Appellant, )

v. )

JOHN DOE, )

Defendant-Respondent. )

Docket No. 29788

**IN THE MATTER OF THE TERMINATION )  
OF THE PARENTAL RIGHTS OF JANE DOE )  
AND JOHN DOE RE: BABY BOY DOE, A )  
MINOR CHILD. )**

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**ROE FAMILY SERVICES and JANE DOE, )**

**Plaintiffs, )**

**v. )**

**Docket No. 30010**

**JOHN DOE, )**

**Defendant-Respondent, )**

**and )**

**JOHN ROE and JANE ROE, )**

**Intervenors-Appellants. )**

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Appeals from the District Court of the Sixth Judicial District of the State of Idaho, Bannock County. Hon. Peter D. McDermott, District Judge; Hon. Ronald M. Hart, Magistrate Judge.

The decision of the magistrate judge terminating parental rights is: Reversed and remanded.

Holden, Kidwell, Hahn & Crapo, Idaho Falls; Dial, May & Ramrell, Chtd., Pocatello, for appellant Roe Family Services. Dale W. Storer argued.

Cooper & Larsen, Pocatello, for appellant Jane Doe. Reed W. Larsen argued.

Wolf, Combo & Thompson, Idaho Falls, for respondent John Doe. William P. Combo argued.

Racine, Olson, Nye, Budge & Bailey, Chtd., Pocatello, for appellants John Roe and Jane Roe. Mitchell W. Brown argued.

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In December 2001, Jane Doe informed John Doe, that she was pregnant with his child. The parties were not married. Jane Doe sought counseling from Roe Family Services during her pregnancy and became a client of the organization. RFS never considered John Doe a client and did not advise him of the steps necessary to protect his parental rights.

During the pregnancy, John Doe and Jane Doe discussed whether to put the child up for adoption but both vacillated between adoption and keeping the baby. Jane Doe and John Doe were in agreement that they would keep the baby when the baby was born. On August 2, 2002, John Doe and Jane Doe filled out an acknowledgment of paternity application that requested John Doe's name be recorded as the father on the birth certificate. The Bureau of Vital Statistics issued the birth certificate on September 9, 2002, listing John Doe as the baby's father. RFS was aware that John Doe filled out the paternity affidavit.

On August 8, 2002, Jane Doe called RFS and advised them she wanted to place the baby for adoption. John Doe opposed the adoption and called an attorney. RFS filed a petition to terminate parental rights on August 13, 2002, in magistrate court. Jane Doe appeared and signed a consent to terminate her parental rights. Jane Doe testified John Doe did not know she was proceeding with the adoption and that he was opposed to placing the baby. John Doe received no notice of the August 13 hearing. The magistrate court terminated the parental rights of Jane Doe based on consent and then terminated John Doe's parental rights based on his failure to file and register his notice of commencement of paternity proceedings as required by I.C. § 16-1513. The magistrate court granted RFS custody and RFS placed the baby with adoptive parents John and Jane Roe.

Jane Doe called John Doe on August 13, 2002, after the hearing to tell him she placed the baby for adoption. John Doe called an attorney and filed a separate paternity action on September 9, 2002, and moved to set aside the decree of termination.

On December 10, 2002, the magistrate court denied John Doe's motion to set aside the termination decree and granted the Roes custody. John Doe appealed to the district court. The district court reversed the termination decree because John Doe had not been given notice of the termination hearing. RFS appealed to the Idaho Supreme Court, asking that this Court uphold the termination decree.

The Idaho Supreme Court reversed the magistrate court's termination decree because the magistrate did not correctly apply the law. The magistrate erred because John Doe was entitled to notice of the termination of his parental rights as a result of being listed as the father on the birth certificate. In circumstances where the father and the mother both acknowledge who the biological father is and the father is willing to accept the rights and responsibilities of paternity, the father is entitled to notice of termination proceedings.

The Court remanded the case back to the magistrate court for further proceedings.